

**IN THE UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF TENNESSEE AT KNOXVILLE**

TERESA SILCOX,

Plaintiff,

v.

**STATE FARM FIRE AND CASUALTY
COMPANY,**

Defendant.

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Case No: _____

U.S. District Judge _____

U.S. Magistrate Judge _____

JURY DEMAND

NOTICE OF REMOVAL FROM CIRCUIT COURT

COMES NOW, State Farm Fire and Casualty Company, (hereinafter referred to as “State Farm”), by and through counsel, pursuant to 28 U.S.C. §§1332, 1441 and 1446, and files this Notice of Removal of this civil action from the Circuit Court of Scott County, Tennessee, at Huntsville, to the United States District Court for the Eastern District of Tennessee, at Knoxville, and states as follows:

1. On May 4, 2011, plaintiff Theresa Silcox, filed a Complaint against this defendant in the Circuit Court of Scott County, Tennessee, at Huntsville under Docket No. 8127

2. On May 11, 2011, the Complaint was served upon Brenda C. Mead, the designated agent for service of process with the Tennessee Department of Commerce and Insurance. The Tennessee Department of Commerce and Insurance forwarded the Complaint to State Farm’s Murfreesboro, Tennessee office on May 18, 2011. A true and correct copy of all pleadings, process and the complaint served on State Farm is attached hereto as Exhibit A.

3. No further action has occurred on this case currently pending in Scott County Circuit Court.

4. Pursuant to 28 U.S.C. §1332(a), this court has jurisdiction when the matter in controversy exceeds the sum or value of \$75,000.00, exclusive of interest and costs and is between citizens of different states.

5. The plaintiff, Teresa Silcox, is and was, at all times relevant to this action, a resident of Huntsville, Tennessee in Scott County. State Farm Fire and Casualty Company is incorporated in the State of Illinois with its principal place of business in Bloomington, Illinois, and is licensed to do business in the State of Tennessee.

6. The Complaint filed by Ms. Silcox seeks damages related to a breach of contract via a homeowner's insurance policy with State Farm Fire and Casualty Company. The plaintiff also alleges that this defendant engaged in unfair and deceptive practices, violating the Tennessee Consumer Protection Act (TCPA) as contained in TENN. CODE ANN. §§ 47-18-101 through 130 (2001, as supplemented). Further, plaintiff contends that this defendant has engaged in conduct that would allow recovery under the bad faith statute contained in TENN. CODE ANN. §56-7-105 (2001, as supplemented).

7. The plaintiff seeks an unspecified amount in compensatory damages, however, Ms. Silcox alleges her home was a total loss, as were all the contents. Under her policy, her home dwelling coverage alone was for \$134,700.00. Plaintiff also seeks treble damages through the TCPA as noted above. Pursuant to TENN. CODE ANN. §47-18-109(a) (3) (2001, as supplemented), the TCPA allows for treble damages and, as plead in the complaint, treble damages, at a minimum, would allow \$404,100.00 in additional recovery.

8. As noted, Plaintiff alleges that Defendant violated the bad faith statute. Twenty five percent of the penalty for a \$134,700.00 loss sustained would total \$33,675.00 in additional damages.

9. Furthermore, the plaintiffs have asked for attorneys' fees. Pursuant to *Williamson v. Aetna Life Ins. Co.*, 481 F.3d 369, 376-377 (6th Cir. 2007), the TCPA allows these fees as part of the statutory recovery and these attorneys fees are included in the calculation of the amount in controversy.

10. Adding up the damages sought on the face of the Complaint, plaintiff seeks, at a minimum, approximately \$572,475.00 in damages, not including the attorneys' fees. Thus, these amounts are in significant excess of the sum or value of Seventy-Five Thousand and No/100 (\$75,000.00) Dollars, exclusive of interest and costs.

11. Complete diversity of citizenship exists between the plaintiff, Teresa Silcox and Defendant State Farm Fire and Casualty Company, and the amount in controversy in this case, exceeds the threshold of Seventy-Five Thousand and No/100 (\$75,000.00) Dollars. The jurisdictional threshold contained within 28 U.S.C.A. §1332 has been met.

12. This defendant has filed a copy of this notice with the Circuit Court for Scott County, Tennessee, and has also served a copy to Charles B. Sexton, the attorney for Ms. Silcox.

WHEREFORE, PREMISES CONSIDERED, Defendant requests this action be removed from Circuit Court for Scott County, to the United States District Court for the Eastern District of Tennessee at Knoxville. Defendant further requests a jury of six to hear this matter.

Respectfully submitted,

WILKINS TIPTON, P.A.

By: /s/Jay R. McLemore

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Brentwood, TN 37027
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*Attorney for State Farm Fire and Casualty
Company*

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the Notice of Removal from Circuit Court has been served via United States mail, postage prepaid, to the following:

Charles B. Sexton
C. Patrick Sexton
Sexton, Sexton & Kazee
P.O. Box 4187
Oneida, TN 37841

Donnie Phillips, Jr.
Scott County Circuit Clerk
283 Court Street
P.O. Box 330
Huntsville, TN 37756

This the 9th day of June, 2011.

/s/Jay R. McLemore
JAY R. McLEMORE